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Chapter No. 98
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SENATE BILL NO. 3132

Originated in Senate *Hendrix* Secretary

SENATE BILL NO. 3132

AN ACT MAKING AN APPROPRIATION FOR THE SUPPORT AND
MAINTENANCE OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS FOR
FISCAL YEAR 2011.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following sum, or so much thereof as may be
necessary, is hereby appropriated out of any money in the State
General Fund not otherwise appropriated, for the support and
maintenance of the Mississippi Department of Corrections for the
fiscal year beginning July 1, 2010, and ending June 30, 2011
..... \$ 312,939,804.00.

SECTION 2. The following sum, or so much thereof as may be
necessary, is hereby appropriated out of any money in the special
fund in the State Treasury to the credit of the Mississippi
Department of Corrections which is collected by or otherwise
become available for the purpose of defraying the expenses of the
Department, for the fiscal year beginning July 1, 2010, and ending
June 30, 2011 \$ 19,022,396.00.

SECTION 3. Of the funds appropriated under the provisions of
Sections 1 and 2, not more than the amounts set forth below shall
be expended:

SUPPORT

Of the funds appropriated under the provisions of this act,
not more than the following amount shall be expended for Salaries,
Wages and Fringe Benefits \$ 125,913,052.00.

FUNDING:

General Funds	\$ 144,694,958.00
Special Funds	<u>15,595,909.00</u>

Total \$ 160,290,867.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	3,365
	Part Time	23
Time-Limited:	Full Time	130
	Part Time	0

FARMING OPERATIONS

Of the funds appropriated under the provisions of this act,
not more than the following amount shall be expended for Salaries,
Wages and Fringe Benefits \$ 536,741.00.

FUNDING:

General Funds	\$ 0.00
Special Funds	<u>3,191,145.00</u>
Total	\$ 3,191,145.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	12
	Part Time	0
Time-Limited:	Full Time	0
	Part Time	0

PAROLE BOARD

Of the funds appropriated under the provisions of this act,
not more than the following amount shall be expended for Salaries,
Wages and Fringe Benefits \$ 647,544.00.

FUNDING:

General Funds	\$ 744,749.00
Special Funds	<u>0.00</u>
Total	\$ 744,749.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	8
	Part Time	0
Time-Limited:	Full Time	0
	Part Time	0

PRIVATE PRISONS

Of the funds appropriated under the provisions of this act,
not more than the following amount shall be expended for Salaries,
Wages and Fringe Benefits \$ 0.00.

FUNDING:

General Funds	\$ 77,501,201.00
Special Funds	<u>0.00</u>
Total	\$ 77,501,201.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	0
	Part Time	0
Time-Limited:	Full Time	0
	Part Time	0

MEDICAL SERVICES

Of the funds appropriated under the provisions of this act,
not more than the following amount shall be expended for Salaries,
Wages and Fringe Benefits \$ 235,342.00.

FUNDING:

General Funds	\$ 46,111,541.00
Special Funds	<u>235,342.00</u>
Total	\$ 46,346,883.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	0
	Part Time	0
Time-Limited:	Full Time	2
	Part Time	0

REGIONAL FACILITIES

Of the funds appropriated under the provisions of this act,
not more than the following amount shall be expended for Salaries,
Wages and Fringe Benefits \$ 0.00.

FUNDING:

General Funds	\$ 35,050,641.00
Special Funds	<u>0.00</u>
Total	\$ 35,050,641.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	0
	Part Time	0
Time-Limited:	Full Time	0
	Part Time	0

LOCAL CONFINEMENT

Of the funds appropriated under the provisions of this act,
not more than the following amount shall be expended for Salaries,
Wages and Fringe Benefits \$ 0.00

FUNDING:

General Funds	\$	8,836,714.00
Special Funds		<u>0.00</u>
Total	\$	8,836,714.00

AUTHORIZED POSITIONS:

Permanent:	Full Time	0
	Part Time	0
Time-Limited:	Full Time	0
	Part Time	0

With the funds herein appropriated, it is the intention of
the Legislature that it shall be the agency's responsibility to
make certain that funds required to be appropriated for "Personal
Services" for Fiscal Year 2012 do not exceed Fiscal Year 2011
funds appropriated for that purpose, unless programs or positions
are added to the agency's Fiscal Year 2011 budget by the
Mississippi Legislature. Based on data provided by the
Legislative Budget Office, the State Personnel Board shall
determine and publish the projected annual cost to fully fund all
appropriated positions in compliance with the provisions of this
act. It shall be the responsibility of the agency head to insure
that no single personnel action increases this projected annual
cost and/or the Fiscal Year 2011 appropriations for "Personal
Services" when annualized, with the exception of escalated funds.
If, at the time the agency takes any action to change "Personal

Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2011 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Unless otherwise authorized in this act, no state agency shall take any action to promote or otherwise award salary increases through reallocation, reclassification, realignment, educational benchmark, career ladder, equity salary adjustment, or any other means to increase salaries of employees or positions unless specifically exempted by the following conditions: the award of teacher salary increments; the advancement of a trainee/cadet to the next level of a bona fide career ladder; the award of an educational benchmark for the attainment of a Certified Public Accountant License or higher level professional certification based on information provided to the State Personnel Board by the Legislative Budget Office; the immediate replacement of a departing employee with an employee from within state service at a salary level of the departing employee or the Fiscal Year 2011 promotional formula, whichever is less; the emergency appointment of nurses, pharmacists or other health care and child protection professionals at a salary to be determined by the State Personnel Board; or a new hire associated with the American Recovery and Reinvestment Act of 2009. All positions supported by funds available through the American Recovery and Reinvestment Act of 2009 shall be designated as time-limited positions.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The

Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

SECTION 4. None of the funds appropriated under the provisions of Sections 1 and 2 of this act may be expended by the Department of Corrections after September 1, 2010, until the Commissioner of Corrections, on behalf of the State of Mississippi, has submitted an application to the United States Secretary of Homeland Security to participate in the Criminal Alien Program of the United States Immigration and Customs Enforcement, in order to identify criminal aliens who are incarcerated in state correctional facilities and ensure that they are not released into the community by securing a final order of removal that deports the aliens back to their home countries before the termination of their sentences.

SECTION 5. In compliance with the "Mississippi Performance Budget and Strategic Planning Act of 1994," it is the intent of the Legislature that the funds provided herein shall be utilized in the most efficient and effective manner possible to achieve the intended mission of this agency. Based on the funding authorized, this agency shall make every effort to attain the targeted performance measures provided below:

	FY2011
<u>Performance Measures</u>	<u>Target</u>
Institutions - Parchman	
Average Population (Inmates)	3,960
Participants in Programs (Inmates)	2,900
Successful Program Completion (Inmates)	1,100

Central MS Correctional Fac

Average Population (Inmates)	3,000
Participants in Programs (Inmates)	1,000
Successful Program Completion (Inmates)	750

South MS Correctional Fac

Average Population (Inmates)	2,876
Participants in Programs (Inmates)	2,000
Successful Program Completion (Inmates)	1,200

Community Corrections

Average Population (Offenders)	32,000
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Farming

Vegetables Produced (Pounds)	3,900,000
Dozens of Eggs Sold (Dozens)	600,000

Parole Board

Number Paroled (Offenders)	3,500
Number of Paroles Revoked (Revocations)	170

Private Prisons

Private Prison Beds Funded (Beds)	5,554
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Medical Services

Average Population Covered (Inmates)	16,644
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Regional Facilities

Regional Prison Beds Funded (Beds)	3,713
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Local Confinement

Local Confinement Population (Inmates)	1,346
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A reporting of the degree to which the performance targets set above have been or are being achieved shall be provided in the agency's budget request submitted to the Joint Legislative Budget Committee for Fiscal Year 2012.

SECTION 6. Of the funds appropriated in Sections 1 and 2, none shall be expended for personnel housing under the jurisdiction of the Department of Corrections unless the department shall collect a reasonable rent, after a finding of fact as to what is a reasonable rent, and/or the cost of utilities

furnished to said housing. The Department of Corrections shall not pay for the installation or monthly service of any telephone installed in a staff residence under its jurisdiction.

It is further the intention of the Legislature that none of the funds provided herein shall be used to pay certain utilities for state furnished housing for any employees. Such utilities shall include electricity, natural gas, butane, propane and cable services. Where actual cost cannot be determined, the agency shall be required to provide meters to be in compliance with legislative intent. Such state furnished housing shall include single-family and multi-family residences but shall not include any dormitory residences. Allowances for such utilities shall be prohibited.

SECTION 7. Of the funds appropriated in Sections 1 and 2, and authorized for expenditure in Section 3, payment may be authorized for court ordered attorney fees and any accrued interest subject to the approval of the Office of the Attorney General.

SECTION 8. No part of the funds herein appropriated shall be used for the purpose of returning escaped state convicts to the State Penitentiary from a distance of over one hundred (100) miles beyond the borders of the state, except upon approval of the Governor in each specific case.

SECTION 9. None of the money herein appropriated shall be paid to any person who by the provision of Section 47-5-47, Mississippi Code of 1972, as amended, is prohibited from being an employee of the Mississippi Department of Corrections. The State Department of Finance and Administration shall at least annually make a report to the Joint Legislative Committee on Performance Evaluation and Expenditure Review and to the Attorney General stating the name of any person prohibited under the provisions of Section 47-5-47, Mississippi Code of 1972, as amended, from being an employee of the Mississippi Department of Corrections who has

during the preceding year received any money herein appropriated. In the event that any such person prohibited as herein above provided from receiving funds herein appropriated should receive any of said funds, the Attorney General shall immediately commence action to recover the monies so paid to said person and to enjoin the further employment of said person at the Mississippi Department of Corrections.

SECTION 10. It is the intent of the Legislature that all prisoners at Parchman shall work a minimum of eight (8) hours per day, excluding prisoners with a physical disability or those incarcerated in maximum security.

SECTION 11. It is the intention of the Legislature that the Department of Corrections shall have the authority to accept, budget and expend any special funds collected or otherwise available, through the sell of scrap or recycled material, for the purpose of providing recycling equipment, supplies or services for use within the department.

SECTION 12. It is the intention of the Legislature that the per diem rates paid to regional facilities shall not exceed Twenty-nine Dollars and Seventy-four Cents (\$29.74) per inmate. All regional facilities shall continue to receive the annual three percent (3%) increase in the per diem rate as authorized in Section 47-5-933, Mississippi Code of 1972, however, in no event shall any regional facility's per diem rate exceed Twenty-nine Dollars and Seventy-four Cents (\$29.74) per inmate.

SECTION 13. The department or its contracted medical provider will pay to a provider of a medical service for any and all incarcerated persons from a correctional or detention facility an amount based upon negotiated fees as agreed to by the medical care service providers and the department and/or its contracted medical provider. In the absence of negotiated discounted fee schedule, medical care service providers will be paid by the department or its contracted medical service provider an amount no

greater than the reimbursement rate applicable based on the Mississippi Medicaid reimbursement rate. This limitation applies to all medical care services, durable and nondurable goods, prescription drugs and medications provided to any and all incarcerated persons outside of the correctional or detention facility. None of the monies appropriated herein may be used to pay for cosmetic medical procedures for any prisoner. Cosmetic medical procedure means any medical procedure performed in order to change an individual's appearance without significantly serving to prevent or treat illness or disease or to promote proper functioning of the body.

SECTION 14. It is the intention of the Legislature that the Commissioner of the Mississippi Department of Corrections shall have the authority to transfer cash from one special fund treasury fund to another special fund treasury fund under the control of the Department of Corrections. The purpose of this authority is to more efficiently use available cash reserves. It is further the intention of the Legislature that the Department of Corrections shall submit written justification for the transfer to the Legislative Budget Office and the Department of Finance and Administration on or before the fifteenth of the month prior to the effective date of the transfer.

SECTION 15. The Commissioner of the Mississippi Department of Corrections is hereby authorized to transfer spending authority between and within budgets, both positions and funds, in an amount not to exceed twenty-five percent (25%) of the authorized budgets in the aggregate. It is further the intention of the Legislature that the Department of Corrections shall submit written justification for the transfer to the Legislative Budget Office and the Department of Finance and Administration on or before the fifteenth of the month prior to the effective date of the transfer. However, no transfers shall be authorized which increase the major object of expenditure "Salaries, Wages and

Fringe Benefits" in any budget authorized in Section 3 of this act.

SECTION 16. It is the intention of the Legislature that the Mississippi Department of Corrections shall have the authority to receive, budget, and expend funds from any source, including beginning cash in excess of beginning cash when spending authority was initially appropriated, that may become available to the department in accordance with the rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

SECTION 17. It is the intention of the Legislature that the Department of Corrections shall have the authority to accept, budget and expend any portion of confiscated funds received in conjunction with its participating in investigations of illegal activities of any offender under the supervision of the agency. These funds shall be used to provide security enhancement within the Department of Corrections.

SECTION 18. It is the intention of the Legislature that whenever two (2) or more bids are received by this agency for the purchase of commodities or equipment, and whenever all things stated in such received bids are equal with respect to price, quality and service, the Mississippi Industries for the Blind shall be given preference. A similar preference shall be given to the Mississippi Industries for the Blind whenever purchases are made without competitive bids.

SECTION 19. It is legislative intent to ensure beneficial information reaches as many Mississippians as possible. Further, it is legislative intent that the expenditure of public funds for this purpose be accomplished in an efficient and effective manner.

Therefore, state agencies as standard procedure, will observe the following criteria:

- (a) Develop goals and desired result for a campaign.

(b) Evaluate effectiveness through respected advertising standards, including market reach and cost-effectiveness.

(c) Seek public service announcements, which would be aired by media without cost.

(d) Itemize and justify professional assistance and related expenses for creative and production costs outside of the actual media expenditures.

(e) Utilize Mississippi-owned media companies when feasible.

SECTION 20. The department is authorized to expend available funds on technology or equipment upgrades or replacements when it will generate savings through efficiency or when the savings generated from such upgrades or replacements exceed expenditures thereof.

SECTION 21. Of the funds appropriated under the provisions of Section 2 and allocated in Section 3, within the private prisons budget, Two Hundred Sixty-two Thousand Nine Hundred Nine Dollars (\$262,909.00) shall be used for educational efforts at the Walnut Grove Youthful Correctional Facility.

SECTION 22. It is the intention of the Legislature that the agency shall compile cell phone usage records of any cellular phone (wireless communication device) that is assigned, issued or made available to any officer or employee in accordance with Section 25-53-191, Mississippi Code of 1972, and these records shall be made publicly available at the expense of the agency.

SECTION 23. It is the intention of the Legislature that this agency shall have the authority to receive, budget and expend funds from any source that may become available to them as a result of the passage of the American Recovery and Reinvestment Act of 2009 in accordance with the rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

The Executive Director of the Department of Finance and Administration shall have the authority to approve escalations of funds and employee positions using funds from any source available due to the passage of the American Recovery and Reinvestment Act of 2009.

The Executive Director of the Department of Finance and Administration shall immediately send notice of the approval of such budget escalation to the House of Representatives Appropriations Committee, the Senate Appropriations Committee and the Legislative Budget Office. Within fifteen (15) days of such approval, the Executive Director of the Department of Finance and Administration shall ensure that the Legislative Budget Office receives detailed and accurate information about the amount and use of federal and special source funds by state agencies as a result of the passage of the American Recovery and Reinvestment Act of 2009.

SECTION 24. It is the intention of the Legislature that the Mississippi Department of Corrections shall maintain complete accounting and personnel records related to the expenditure of all funds appropriated under this act and that such records shall be in the same format and level of detail as maintained for Fiscal Year 2010. It is further the intention of the Legislature that the agency's budget request for Fiscal Year 2012 shall be submitted to the Joint Legislative Budget Committee in a format and level of detail comparable to the format and level of detail provided during the Fiscal Year 2011 budget request process.

SECTION 25. Of the funds provided within this act, no former employee who is receiving State of Mississippi retirement benefits shall be hired under contract for an amount exceeding Twenty Thousand Dollars (\$20,000.00) a year without prior approval by an agency's proper governing board or authority. Upon approval of such contracts a written report shall be submitted detailing the

cost and need of contract services to the Chairmen and members of the Senate and House Appropriations Committees.

SECTION 26. It is the intention of the Legislature for the Mississippi Department of Corrections to manage funds budgeted and allocated. In so doing the Commissioner of the Department shall have the authority to amend, extend and/or renew the term of any lease agreement or any inmate housing agreement in connection with a correctional facility. Notwithstanding any statutory limits to the contrary, such amendment, extension and/or renewal may be for a length of time up to and including ten (10) years as is necessary for the continued operations of such facilities and implementation of the Department's duties and responsibilities in accordance with Title 47 of the Mississippi Code of 1972, as amended.

SECTION 27. Of the funds appropriated herein, not more than Four Million Dollars (\$4,000,000.00) may be used to pay invoices from fiscal years 2009 and 2010.

SECTION 28. The money herein appropriated shall be paid by the State Treasurer out of any money in the State Treasury to the credit of the proper fund or funds as set forth in this act, upon warrants issued by the State Fiscal Officer; and the State Fiscal Officer shall issue his warrants upon requisitions signed by the proper person, officer or officers, in the manner provided by law.

SECTION 29. This act shall take effect and be in force from

and after July 1, 2010, except for Section 25, which shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
April 21, 2010



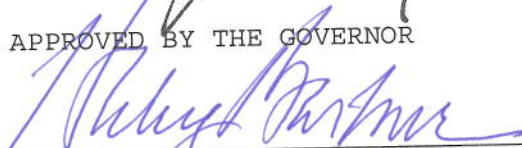
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 21, 2010



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

5/24/10

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